



**STATE MINING & GEOLOGY BOARD**  
DEPARTMENT OF CONSERVATION  
STATE OF CALIFORNIA



**CONFORMED MINUTES**

**THE STATE MINING AND GEOLOGY BOARD**

**Held a Regular Business Meeting on:**

**July 10, 2003**

**Department of Consumer Affairs  
400 R Street, First Floor Hearing Room  
Sacramento, CA 95814**

**AGENDA**

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**CALL TO ORDER**

Vice Chairman Robert Griego called the meeting to order at 10:15 A.M.

**ROLL CALL AND DECLARATION OF A QUORUM**

Roll was called and with seven members present, a Quorum was declared. (absent: Jones)

**DEPARTMENT OF CONSERVATION DIRECTOR'S REPORT**

Director Darryl Young reported on the following budget and legislation activities of the Department of Conservation:

- Responding to proposed budget cuts that intend to suspend California Geological Survey's (CGS) Seismic Instrumentation Program and Seismic Hazards Mapping programs.
- Responding to proposed budget cuts that intend to eliminate all General Fund Monies from the Department of Conservation, which would, in turn, cripple CGS' ability to continue its public safety work. He stated that the CGS public safety programs targeted for suspension (or elimination) spend \$7 million dollars every year to protect \$9 billion dollars worth of property.
- Moving forward from the Governor's Office are Current fiscal year Budget Change Proposals that allows for augmentation of \$1.2 million for seismic hazards programs.
- Updating on SB 649 (Kuehl) – supporting increased annual mine reporting fees, and responding to SB 218 (Sher) - the elimination of the CGS' authority to conduct regional mineral classifications unless they are paid for via the petition process.

Mr. Young explained that his office had very few days notice about the proposals to eliminate monies from the General Fund Account and took steps to aggressively campaign against the proposed ideas.

*Mission of the State Mining and Geology Board is to Represent the State's Interest in the Development, Utilization and Conservation of Mineral Resources; Reclamation of Mined Lands; Development of Geologic and Seismic Hazard Information; and to Provide a Forum for Public Redress*



## CHAIRMAN'S REPORT

Vice Chairman Griego presented an engraved plaque and a Board Resolution commending Dr. James Davis for his many years of dedicated service and significant contributions as the State's Geologist. An engraved plaque was also presented to Mrs. Sally Davis for her support of Dr. Davis in his California public service career.

## EXECUTIVE OFFICER'S REPORT

Executive Officer John Parrish reported on:

- Chile Bar Slate Mine's Initial Study and Mitigated Negative Declaration are being circulated for public comment, with the comment period ending July 21, and Board consideration and action scheduled for the September meeting.
- As lead agency, the Board is seeking revised and new reclamation plans for several operations (Diamond Creek Quarry and Weber Creek Quarry in El Dorado County; Blue Point Mine, Western Aggregates, Teichert-Hallwood, Bullards Bar, and Parks Bar quarries in Yuba County). All operations have been contacted and the quite lengthy response time may cause Notices of Violation for those that have not fully responded.
- The pending move of the SMGB offices and the unavailability of staff for roughly 10 days.

## GOOD OF THE MEETING

(This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. Speakers are limited to three minutes except by special consent of the Chairman)

Lillie Nobel speaking for Teichert Aggregate detailed efforts to update the reclamation plan for their Hallwood facility in Yuba County.

## CONSENT ITEMS

1. Approval of Minutes, June 19, 2003 Regular Business Meeting.

It was moved and seconded to approve the minutes as presented. The motion was carried by a 6-0 vote with Board Member Brian Baca abstaining because he was absent from that meeting.

## CONTINUED BUSINESS ITEMS (These business items have been continued from a previous meeting)

**SPECIAL NOTE: Items 2, 3, 4 were recorded by a certified court reporter and the transcript is available for review at the Board office during normal business hours.**

- Board Inspector Steve Testa reported findings from a site inspection of the Donovan Ranch Property, following the Board's request for him to provide clarification to conflicting reports received from the mine operator and parties opposing the mine project.
2. Issuance of an Order to Comply to Joseph and Yvette Hardesty and Rick and Deanna Churches, to Provide a Draft Reclamation Plan for Surface Mining Activities on the Donovan Ranch Property, Donovan Ranch Road, El Dorado County

After hearing testimony from Board staff, the mine operator, opposing parties, and members of the public, Board Member Robert Hablitzel moved to accept the findings of the Special Report



and issue the Order to Comply. The motion was seconded and carried by a unanimous voice vote.

3. Public Hearing of the Order to Comply Issued May 23, 2003, to Joseph and Yvette Hardesty and Rick and Deanna Churches to Provide a Financial Assurance Instrument in the Amount of \$540,965 in Accordance with § 2770 and § 2773.1 of the Surface Mining and Reclamation Act, for Surface Mining Activities that Occurred on the Donovan Ranch Property, Donovan Ranch Road, El Dorado County.

Following the identification of the Public Hearing Proceedings, Executive Officer Parrish identified the administrative record. After hearing testimony from the mine operator, the lead agency, the Department, and members of the public, Board Member Brian Baca moved to uphold the Order to Comply that a Financial Assurance Instrument be provided in the amount designated. The motion was seconded and carried by a unanimous voice vote.

4. Issuance of an Administrative Penalty to Joseph and Yvette Hardesty and Rick and Deanna Churches for Failure to Provide a Financial Assurance Instrument in the Amount of \$540,965 as Required by the State Mining and Geology Board's Order to Comply Issued May 23, 2003 and as Upheld at a Public Hearing on July 10, 2003. The Administrative Penalty Becomes Effective Upon Issuance if the Financial Assurance Instrument is Not Received at the Board's Office by 5:00 P.M. July 11, 2003.

After hearing testimony from Board staff, the mine operator, opposing parties, and members of the public, Board Member Robert Hablitzel moved to accept staff findings and uphold the Administrative Penalty with a built in daily penalty increase effective September 11, 2003. The motion was seconded and carried by a unanimous voice vote.

5. Issuance of an Order to Comply to Snows Road Quarry, California Mine ID # 91-09-0012, Snows Quarry Products, Operators; El Dorado County; for Failure to Obtain Documentation from the California Department of Fish and Game Regarding Special Animal Species, as Required by the Approved Reclamation Plan. If the Operator Submits the Required Survey Documents Pursuant to the SMGB's Instructions Dated March 10, 2003, the SMGB May Not Issue the Order.

Dr. Parrish explained that the Snow's Road Quarry mine operator has turned in the required survey reports and they were accepted as adequate by the Department of Fish and Game. The Members agreed that the operator had complied and this item was removed from the agenda.

#### NEW BUSINESS

6. Adoption of Resolution Number 2003-03 Certifying the City of Chula Vista's Surface Mining and Reclamation Ordinance Number 2921 as Recommended by the Policy and Legislation Committee.

It was announced that earlier in the day the Policy and Legislation Committee considered the City-adopted version of this ordinance and recommends moving forward on this item. Board



Member Tepel moved to adopt the resolution and certify the City's Ordinance. The motion was seconded and carried by a unanimous voice vote.

7. Consideration to Re-Commence Approval Process for a Revised Reclamation Plan for Otay Ranch Pit, California Mine ID # 91-37-0035. [No Action Will Be Taken on this Item if the City of Chula Vista's Surface Mining Ordinance is Certified – Agenda Item #6]

It was stated that no action would be taken because the city of Chula Vista's mining ordinance was certified under the previous action item. The City can now act as lead agency in approving this reclamation plan for the Otay Ranch Pit.

8. Approval of Financial Assurance Amount for Cal Sierra Development, Inc.'s Mine, California Mine ID # 91-58-0003, Yuba County

Dr. Parrish summarized the history of the Board's previous review of this financial assurance amount and specified missing elements from the financial assurance cost estimate provided by the operator. He explained that this mine operator and Teichert Construction has worked out an agreement to remove dredges with Teichert bearing the cost. The recalculated Financial Assurance for the Cal Sierra site is recommended at \$57,039. When asked about the amount of total disturbed acreage and revegetation costs, Dr. Parrish replied that seeding was calculated and a new reclamation plan has been requested. Board Member Hablitzel moved to approve a Financial Assurance amount of \$57,039 and direct the operator to provide an acceptable instrument for that amount within 30 days. The motion was seconded and carried by a unanimous voice vote.

9. Approval of Financial Assurance Amount for Teichert Aggregate's Yuba Hoffman (Marysville) Mine, California Mine ID # 91-58-0019, Yuba County.

Dr. Parrish summarized the history of this action as a result of the annual inspection and explained that the revised figures in the staff report reflect some correction of the figures given by the operator that were listed incorrectly. He added the change to \$852,389 from \$753,000 is because of those corrections. Speaking for Teichert Construction, Lillie Nobel accepted those modifications and agreed to provide an acceptable instrument in that corrected amount. Dr. Parrish added that the operator recently commenced mining at this site under a 1996 reclamation plan. Board Member Baca moved to approve the Financial Assurance amount of \$852,389 for this mine site and the operator be directed to provide an adequate instrument in this amount within 30 days. The motion was seconded and carried by a unanimous voice vote.

10. Approval of Financial Assurance Amount for Teichert Aggregate's Hallwood Plant, California Mine ID # 91-58-0006, Yuba County.

Dr. Parrish summarized the history of this action as a result of the annual inspection and explained that the revised figures in the staff report reflect some correction of the figures given by the operator that were listed incorrectly. He added the change to \$1,069,069 from \$969,444 is because of those corrections. Ms. Nobel again, accepted those modifications and agreed to provide an acceptable amount in that corrected amount. It was explained that this site will be providing a revised reclamation plan which will require a revised financial assurance estimate.



Board Member Hablitzel moved to approve the financial assurance amount for \$1,069,069 for this mine site and the operator be directed to provide an adequate instrument in that amount within 30 days. The motion was seconded and carried by a unanimous voice vote.

11. Approval of Financial Assurance Amount for Baldwin Contracting Company's Hallwood Mine, California Mine ID # 91-58-0002, Yuba County.

Explaining that this site is next to the Teichert Hallwood site, Dr. Parrish said the operator has asked for a continuance until the September 2003 meeting. A Financial Assurance Estimate had been submitted and was being revised following comments offered by the DOC. Board member Baca moved to continue this action item until the September meeting. The motion was seconded and carried by a unanimous voice vote.

12. Approval of Financial Assurance Amount for Sierra Rock's Diamond Quarry, California Mine ID # 91-09-0003, El Dorado County.

Dr Parrish announced that the Quarry's agent submitted a request to delay action on this item. Speaking for Sierra Rock, Paul Brunius asked for additional time to review the staff report and sought additional information on the professional qualifications of the staff reviewing and commenting on their Financial Assurance Cost Estimate. Dr. Parrish summarized the history of the many reviews and rejections over the months of the Financial Assurance Cost Estimates from this operator and recommends that action not be delayed. Board member Hablitzel moved to approve the \$4,441,542 financial assurance amount for this mine site and direct the operator to provide an acceptable instrument for that amount within 30 days. The motion was seconded and carried by a unanimous voice vote.

13. Approval to Send Notices of Loss of SMARA Authority to the Following Lead Agencies for Ordinances Not in Accordance with State Policy Pursuant to PRC § 2774.5 as Recommended by the Policy and Legislation Committee:

Cities: Auburn, Compton, Jackson, Pacifica, Richmond, Rocklin, Rolling Hills, San Jacinto, Sutter Creek

Dr. Parrish provided updates on the previous notifications made to the cities under discussion. He said the City of Pacifica's revised ordinance is under review at the California Coastal Commission and the City of Jackson's ordinance has been tendered for SMGB review. Dr. Parrish added that the Cities of Vista and Folsom have no post-SMARA mines and have asked to be removed from consideration. The City of Poway is scheduled to submit their draft by July 11. Board Member Ramirez moved that that the cities under consideration, except Vista and Folsom, be notified of the loss of the lead agency responsibilities under PRC 2774.5. The motion was seconded and carried by a unanimous voice vote.

14. PUBLIC HEARING: Pursuant to PRC § 2696(b) and 14CCR § 3723(a), a Hearing will be Conducted to Receive Comments and Recommendations for the Preliminary Seismic Hazard Maps Specific to the Areas Encompassed in the Lake Hughes, Little Buttes, Del Sur, Rosamond, Sleepy Valley, Palmdale, Juniper Hills, and Valyermo Quadrangles in Los Angeles County, and the Santa Paula Peak Quadrangle in Ventura County.



The public hearing was opened and Executive Office Parrish announced that comments from the Cities of Lancaster and Palmdale were forwarded about the maps depicting areas in their jurisdictions being subject to liquefaction as based on a historic high water mark. Their major concern is that the high water mark needs to be reviewed and possibly re-assessed. It was recommended that the quadrangles in question be withheld from finalization until the Board's Geohazard Committee completes its review of the the historic high water mark issue and existing liquefaction criteria. Board Member Ramirez added that in addition to the Lancaster/Palmdale quadrangles previously mentioned, all the quadrangles affected by the Desert Basin Groundwater be held out as well. Mr. Baca continued by describing the Geohazard Committee's intent to review and rewrite the current policy and criteria with input from experts from affected agencies. It was agreed to discuss further at the September Board meeting. With no further public comments, the hearing was closed and all comments will be forwarded to the State Geologist.

## SPECIAL REPORTS AND DEPARTMENTAL PRESENTATIONS

(Based on these Reports, the Chairman may instruct the Board staff to initiate administrative actions)

Michael Reichle, Acting State Geologist, detailed the California Geological Survey's (CGS) efforts to revise the role of the State Geologist. He stated the Development Team would provide the following recommendations on what the California State Geologist's roll should be to Director Young. Dr. Reichle added that Director Young's specific vision was for a flat management structure, with the State Geologist sharing responsibilities and decision making with the Supervising Geologist management team.

As Spokesperson for the California Geological Survey, the State Geologist will

- Lead in the development of consensus of the Survey's message to the public
- Represent the Survey's policies to the Administration, local, state, and federal agencies
- Represent the interests of all Californians on geologic issues to the federal government.

As Strategist for the Survey, the State Geologist will

- Need to know what is happening in earth sciences at all government levels
- Identify issues and opportunities within the Survey and initiate strategic analysis for those identified changes
- Develop strategic partnership with other agencies for public policy and decision-making
- Seek funding for those strategic partnerships
- Act as team leader to the whole CGS management team
- Act as internal and external facilitator for the Survey
- Lead in outreach and education activities.
- Identify the best uses for the increasingly scarce resources for education and outreach.
- Serve as Chief Administrator for the CGS

As part of the development team, Board Member Tepel asked that a written summary of these ideas be shared with the Board.

## SMGB COMMITTEE REPORTS

Executive Officer Parrish was directed by the Board to file a formal complaint with the Engineer's Board seeking an investigation as unlicensed professional practice for a report



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submitted to the State Mining and Geology Board purporting to be an onsite evaluation of soils.

### EXECUTIVE SESSION (CLOSED TO THE PUBLIC)

[The Board will discuss information from its legal counsel on current and pending litigation and may take appropriate actions based on this information. This session is being held under Government Code § 11126.] Items to be discussed:

- a) Calvert, et al vs. SMGB et al, Case # OOCS01434, Sacramento Superior Court
- b) Loring Brunius vs. SMGB, Case # PC 20010449, El Dorado County
- c) An un-named case where there is potentially significant exposure to litigation against the Board.

### REOPEN REGULAR BUSINESS SESSION, ANNOUNCE RESULTS OF EXECUTIVE SESSION

Bill Cunningham reported that no action was taken during the Executive Session.

### ANNOUNCEMENTS OF FUTURE MEETINGS

The next meeting was announced as September 11, 2003.

### ADJOURNMENT

**NOTE:** ITEMS TO BE CONSIDERED FOR PLACEMENT ON A BOARD MEETING AGENDA MUST BE SUBMITTED NOT LATER THAN THIRTY (30) DAYS PRIOR TO THE SCHEDULED MEETING.

**NOTE:** BOARD MEETINGS ARE OPEN TO THE PUBLIC AND ARE HELD IN BARRIER FREE FACILITIES IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT. FOR ADDITIONAL INFORMATION OR ASSISTANCE, CONTACT THE BOARD OFFICE.

**NOTE:** INFORMATION REGARDING STATE MINING AND GEOLOGY BOARD MEETINGS MAY BE OBTAINED BY CALLING THE BOARD OFFICE AT (916) 322-1082. COPIES OF STAFF REPORTS AND APPROVED MINUTES MAY BE OBTAINED BY WRITING THE BOARD OFFICE AT 801 'K' STREET, MS 24-05, SACRAMENTO, CALIFORNIA 95814 OR BY ACCESSING THE BOARD'S WEB SITE: <http://www.consrv.ca.gov/smgb/>

**NOTE:** IF YOU WISH TO COMMENT ON AN AGENDA ITEM OR SPEAK DURING THE PUBLIC COMMENTS PERIOD, PLEASE FILL OUT A "REQUEST TO SPEAK" FORM, AVAILABLE AT THE MEETING ROOM ENTRANCE, AND GIVE IT TO THE BOARD SECRETARY. PLEASE DELIVER THE FORM PRIOR TO THE ITEM BEING HEARD BY THE BOARD. DURING THE PUBLIC COMMENT PERIOD, EACH SPEAKER IS LIMITED TO A MAXIMUM OF THREE MINUTES. AT THE DISCRETION OF THE CHAIRMAN, MORE TIME MAY BE GRANTED.

**NOTE:** INDIVIDUALS ARE ENCOURAGED TO SUBMIT WRITTEN STATEMENTS OF ANY LENGTH AND DETAIL TO THE BOARD. IT IS PREFERABLE THAT THESE STATEMENTS BE SUBMITTED **AT LEAST FIFTEEN DAYS PRIOR TO THE MEETING** SO THAT THE BOARD MEMBERS CAN PREVIEW THE INFORMATION BEFORE THE MEETING. PLEASE SUBMIT 12 COPIES OF ALL WRITTEN MATERIALS IN EXCESS OF TWO PAGES. THE BOARD WILL NOT REPRODUCE REPORTS IN EXCESS OF TWO PAGES OR LARGE MAPS, PHOTOS, OR OTHER DOCUMENTS REQUIRING SPECIAL HANDLING. **INDIVIDUALS ARE RESPONSIBLE FOR PRESENTING THEIR PROJECTS AT THE PUBLIC HEARING.**

**NOTE:** A CLOSED SESSION MAY BE CALLED BY THE CHAIRMAN TO DISCUSS LITIGATION AND OTHER PRIVILEGED ATTORNEY/CLIENT COMMUNICATIONS BY AUTHORITY OF GOVERNMENT CODE §11126(q) AND SACRAMENTO NEWSPAPER GUILD vs. SACRAMENTO COUNTY BOARD OF SUPERVISORS [1968] 266(b) CAL. APP. 2nd, 41; BASIS OF "LITIGATION" EXCEPTION IS THE ATTORNEY/CLIENT PRIVILEGE.

**NOTE:** AS A STATE AGENCY, THE BOARD IS GOVERNED BY THE BAGLEY-KEENE OPEN MEETING ACT THAT REQUIRES THE BOARD TO (1) PUBLISH AN AGENDA AT LEAST TEN DAYS IN ADVANCE OF ANY MEETING; (2) DESCRIBE IN THE AGENDA SPECIFIC ITEMS TO BE TRANSACTED OR DISCUSSED; AND, (3) REFUSE TO ADD AN ITEM AFTER THE AGENDA IS PUBLISHED.